

HOUSE CS FOR CS FOR SENATE BILL NO. 196(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/27/08

Referred: Finance

Sponsor(s): SENATORS GREEN, Ellis, Davis, Dyson, Stevens

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to establishing a controlled substance prescription database."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** AS 08.80.030(b) is amended to read:

4 (b) In order to fulfill its responsibilities, the board has the powers necessary
5 for implementation and enforcement of this chapter, including the power to

6 (1) elect a president and secretary from its membership and adopt rules
7 for the conduct of its business;

8 (2) license by examination or by license transfer the applicants who are
9 qualified to engage in the practice of pharmacy;

10 (3) assist the department in inspections and investigations for
11 violations of this chapter, or of any other state or federal statute relating to the practice
12 of pharmacy;

13 (4) adopt regulations to carry out the purposes of this chapter;

14 (5) establish and enforce compliance with professional standards and
15 rules of conduct for pharmacists engaged in the practice of pharmacy;

1 (6) determine standards for recognition and approval of degree
2 programs of schools and colleges of pharmacy whose graduates shall be eligible for
3 licensure in this state, including the specification and enforcement of requirements for
4 practical training, including internships;

5 (7) establish for pharmacists and pharmacies minimum specifications
6 for the physical facilities, technical equipment, personnel, and procedures for the
7 storage, compounding, and dispensing of drugs or related devices, and for the
8 monitoring of drug therapy;

9 (8) enforce the provisions of this chapter relating to the conduct or
10 competence of pharmacists practicing in the state, and the suspension, revocation, or
11 restriction of licenses to engage in the practice of pharmacy;

12 (9) license and regulate the training, qualifications, and employment of
13 pharmacy interns and pharmacy technicians;

14 (10) issue licenses to persons engaged in the manufacture and
15 distribution of drugs and related devices;

16 **(11) establish and maintain a controlled substance prescription**
17 **database as provided in AS 17.30.200.**

18 * **Sec. 2.** AS 17.30 is amended by adding a new section to read:

19 **Article 4A. Controlled Substance Prescription Database.**

20 **Sec. 17.30.200. Controlled substance prescription database.** (a) The
21 controlled substance prescription database is established in the Board of Pharmacy.
22 The purpose of the database is to contain data as described in this section regarding
23 every prescription for a schedule IA, IIA, IIIA, IVA, or VA controlled substance under
24 state law or a schedule I, II, III, IV, or V controlled substance under federal law
25 dispensed in the state to a person other than an inpatient in a licensed health care
26 facility. The Department of Commerce, Community, and Economic Development
27 shall assist the board and provide necessary staff and equipment to implement this
28 section.

29 (b) The pharmacist-in-charge of each licensed or registered pharmacy,
30 regarding each schedule IA, IIA, IIIA, IVA, or VA controlled substance under state
31 law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed

1 by a pharmacist under the supervision of the pharmacist-in-charge, and each
2 practitioner who directly dispenses a schedule IA, IIA, IIIA, IVA, or VA controlled
3 substance under state law or a schedule I, II, III, IV, or V controlled substance under
4 federal law other than those administered to a patient at a health care facility, shall
5 submit to the board, by a procedure and in a format established by the board, the
6 following information for inclusion in the database:

7 (1) the name of the prescribing practitioner and the practitioner's
8 federal Drug Enforcement Administration registration number or other appropriate
9 identifier;

10 (2) the date of the prescription;

11 (3) the date the prescription was filled and the method of payment; this
12 paragraph does not authorize the board to include individual credit card or other
13 account numbers in the database;

14 (4) the name, address, and date of birth of the person for whom the
15 prescription was written;

16 (5) the name and national drug code of the controlled substance;

17 (6) the quantity and strength of the controlled substance dispensed;

18 (7) the name of the drug outlet dispensing the controlled substance;

19 and

20 (8) the name of the pharmacist or practitioner dispensing the controlled
21 substance and other appropriate identifying information.

22 (c) The board shall maintain the database in an electronic file or by other
23 means established by the board to facilitate use of the database for identification of

24 (1) prescribing practices and patterns of prescribing and dispensing
25 controlled substances;

26 (2) practitioners who prescribe controlled substances in an
27 unprofessional or unlawful manner;

28 (3) individuals who receive prescriptions for controlled substances
29 from licensed practitioners and who subsequently obtain dispensed controlled
30 substances from a drug outlet in quantities or with a frequency inconsistent with
31 generally recognized standards of dosage for that controlled substance; and

1 (4) individuals who present forged or otherwise false or altered
2 prescriptions for controlled substances to a pharmacy.

3 (d) The database and the information contained within the database are
4 confidential, are not public records, and are not subject to public disclosure. The board
5 shall undertake to ensure the security and confidentiality of the database and the
6 information contained within the database. The board may allow access to the
7 database only to the following persons, and in accordance with the limitations
8 provided and regulations of the board:

9 (1) personnel of the board regarding inquiries concerning licensees or
10 registrants of the board or personnel of another board or agency concerning a
11 practitioner under a search warrant, subpoena, or order issued by an administrative law
12 judge or a court;

13 (2) authorized board personnel or contractors as required for
14 operational and review purposes;

15 (3) a licensed practitioner having authority to prescribe controlled
16 substances, to the extent the information relates specifically to a current patient of the
17 practitioner to whom the practitioner is prescribing or considering prescribing a
18 controlled substance;

19 (4) a licensed or registered pharmacist having authority to dispense
20 controlled substances, to the extent the information relates specifically to a current
21 patient to whom the pharmacist is dispensing or considering dispensing a controlled
22 substance;

23 (5) federal, state, and local law enforcement authorities may receive
24 printouts of information contained in the database under a search warrant, subpoena,
25 or order issued by a court establishing probable cause for the access and use of the
26 information; and

27 (6) an individual who is the recipient of a controlled substance
28 prescription entered into the database may receive information contained in the
29 database concerning the individual on providing evidence satisfactory to the board that
30 the individual requesting the information is in fact the person about whom the data
31 entry was made and on payment of a fee set by the board under AS 37.10.050 that

1 does not exceed \$10.

2 (e) The failure of a pharmacist-in-charge, pharmacist, or practitioner to submit
3 information to the database as required under this section is grounds for the board to
4 take disciplinary action against the license or registration of the pharmacy or
5 pharmacist or for another licensing board to take disciplinary action against a
6 practitioner.

7 (f) The board may enter into agreements with dispensers that are not regulated
8 by the state and practitioners in this state to submit information to and access
9 information in the database subject to this section and the regulations of the board. The
10 board shall prohibit a dispenser that is not regulated by the state from accessing the
11 database if the dispenser has accessed information in the database contrary to the
12 limitations of this section, discloses information in the database contrary to the
13 limitations of this section, or allows nonauthorized persons access to the database.

14 (g) The board shall promptly notify the president of the senate and the speaker
15 of the house of representatives if, at any time after the effective date of this Act, the
16 federal government fails to pay all or part of the costs of the controlled substance
17 prescription database.

18 (h) An individual who has submitted information to the database in
19 accordance with this section may not be held civilly liable for having submitted the
20 information. Nothing in this section requires or obligates a dispenser or practitioner to
21 access or check the database before dispensing, prescribing, or administering a
22 medication, or providing medical care to a person. Dispensers or practitioners may not
23 be held civilly liable for damages for accessing or failing to access the information in
24 the database.

25 (i) In the regulations adopted under this section, the board shall provide

26 (1) that prescription information in the database shall be purged from
27 the database after two years have elapsed from the date the prescription was
28 dispensed;

29 (2) a method for an individual to challenge information in the database
30 about the individual that the person believes is incorrect or was incorrectly entered by
31 a dispenser.

- 1 (j) A person
2 (1) with authority to access the database under (d) of this section who
3 knowingly
4 (A) accesses information in the database beyond the scope of
5 the person's authority commits a class A misdemeanor;
6 (B) accesses information in the database and knowingly
7 discloses that information to a person not entitled to access or to receive the
8 information commits a class C felony;
9 (C) allows another person who is not authorized to access the
10 database to access the database commits a class C felony;
11 (2) without authority to access the database under (d) of this section
12 who knowingly accesses the database or knowingly receives information that the
13 person is not authorized to receive under (d) of this section from another person
14 commits a class C felony.
15 (k) In this section,
16 (1) "board" means the Board of Pharmacy;
17 (2) "database" means the controlled substance prescription database
18 established in this section;
19 (3) "knowingly" has the meaning given in AS 11.81.900;
20 (4) "pharmacist-in-charge" has the meaning given in AS 08.80.480.